IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.RAMACHANDRAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

WP(C).No. 19510 of 2006(V)

AGAINST THE ORDER DATED 23/01/2006 IN IA.NO.1658/2005 IN OP.303/2005 of FAMILY COURT,TRIVANDRUM

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PETITIONER:

SHAJI MATHEW ABRAHAM,
S/O.P.A.MATHEW, KALPAKA TOURIST HOME,
NEAR OVER BRIDGE, THIRUVANANTHAPURAM.

BY ADV. SRI.GEO PAUL
SRI.SANU MATHEW

RESPONDENTS:
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1. RANI ABRAHAM @ MERSAMMA VARGHESE,
D/O.K.K.VARGHESE, PATTERI MADATHIL,
T.C.11/1045, WATTS LANE,
NANDANCODE, THIRUVANANTHAPURAM.

2. MILI ELSA ABRAHAM,
D/O.SHAJI MATHEW ABRAHAM,
PATTERI MADATHIL, T.C.11/1045, WATTS LANE,
NANDANCODE, THIRUVANANTHAPURAM.

BY ADV. SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1-TRUE COPY OF ORDER IN IA NO.1658/2005 IN OP 303/2005 OF THE FAMILY COURT, TVM. DATED 23.1.2006

RESPONDENTS' EXTS:

EXT.R1(A)-TRUE COPY OF O.P.NO.303/2005 FILED BY THE RESPONDENTS BEFORE THE FAMILY COURT, TVM.

EXT.R1(B)-TRUE COPY OF IA NO.1658/05 IN OP 303/05 FILED BY THE RESPONDENTS BEFORE THE FAMILY COURT, TVM .

EXT.R1(C)-TRUE COPY OF FINAL REPORT ALONG WITH FIR NO.69/2005 FILED BY THE MUSEUM POLICE STATION, TVM. BEFORE THE CHIEF JUDL. MAGISTRATE COURT, TVM.

EXT.R1(D)-PHOTO COPY OF COUNTER AFFIDAVIT FILED IN OP 303/2005 BY THE PETITIONER BEFORE THE FAMILY COURT, TVM.

// TRUE COPY //

M. RAMACHANDRAN & A.K. BASHEER, JJ.

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DATED THIS THE 6TH DAY OFDECEMBER, 2006.

JUDGMENT

Basheer, J.

The husband in a proceeding pending before the Family Court, Thiruvananthapuram has preferred this writ petition under Article 227 of the Constitution of India. He impugns the interim order passed by the court below by which he has been directed to pay interim maintenance to his wife at the rate of Rs.1,000/- per month and to the daughter, at the rate of Rs.2,500/- per month from the date of order, viz. January 23, 2006. The interim order has been passed in O.P.No.303/2005 which is a petition filed by his wife and daughter claiming past and future maintenance and also for realisation of the sale proceeds of a small extent of land belonging to respondent No.1 which was allegedly sold by the petitioner. Since we are not concerned with the other incidental prayers in the writ petition, we do not deem it necessary to refer to them at this stage.

2. The respondents, wife and daughter of the petitioner, had claimed interim maintenance at the rate of Rs.4,000/- and Rs.11,500/- per month respectively. Petitioner had resisted the claim for interim maintenance. However, the court below took note of the fact that respondent No.2, the daughter is studying for B.Sc. Nursing in Kovai Medical Centre and Hospital, Coimbatore. It was also noticed by the court below that petitioner had admitted that he is the proprietor of

Kalpaka Toursit Home in Thiruvananthapuram city and that the respondents have no means of their own to maintain themselves. It was in the above circumstances that the court below had directed the petitioner to pay interim maintenance at the rate of Rs.1,000/- and Rs.2,500/- per month to his wife and daughter respectively pending disposal of the main case.

Having heard learned counsel for the parties and having perused the materials on record, we do not find any material illegality or irregularity in the impugned order warranting interference under Article 227 of the Constitution of India. The court below had adverted to the relevant aspects of the case sufficiently elaborately. In the absence of any factor or error apparent on the face of the record, we are persuaded to refrain from interfering with the order passed by the court below, particularly since it is only an interim arrangement pending final adjudication in the main case.

The writ petition fails. It is accordingly dismissed.

(M. Ramachandran, Judge.)

(A.K. Basheer, Judge.)

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